

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated October 30, 2006.

Claims 1-36 are the claims currently pending in the present application.

Claims 1, 13 and 25 are amended to clarify features recited thereby. The remaining claims are amended to conform them more closely to U.S. patent practice style.

Applicant thanks the Examiner for acknowledging the claim for foreign priority and the receipt of the priority document.

Further, applicant thanks the Examiner for acknowledging review and consideration of the references cited in the Information Disclosure Statements filed on March 26, 2004, January 26, 2005, and September 11, 2006.

Rejection of Claims 1, 2, 7, 8, 13, 14, 19, 20, 25, 26, 31 and 32 under 35 U.S.C. §103

Claims 1, 2, 7, 8, 13, 14, 19, 20, 25, 26, 31 and 32 are rejected under 35 U.S.C. §103 as being obvious based on Kim (2003/0153346), in view of Dahlman (2002/0010001).
Reconsideration of this rejection is respectfully requested.

Among the problems recognized and solved by applicant's invention as claimed in claim 1 is that the encoding gain of a dedicated physical control channel need not be a fixed value but may vary based on the encoding gain of the dedicated physical data channel. For example, according to an aspect of the invention as claimed in claim 1, based on an outer loop power control of the forward link, the transmission power of both the physical data channel and the physical control channel may be set and, for example, lowered, at an acceptable quality level, based on the encoding gain determined for the physical data channel.

For at least the following reasons, the recitations of independent claims 1, 13 and 25 are neither anticipated by nor obvious based on the cited art. Claims 1 and 13 require a power correcting unit operative to correct transmission power based on an encoding gain of the dedicated physical data channel, and transmitting the dedicated physical data channel and the dedicated physical control channel with the corrected transmission power. Further, claim 25 requires correcting transmission power based on the encoding gain of the dedicated physical data

channel, and transmitting the dedicated physical data channel and the dedicated physical control channel with the corrected transmission power.

Kim discloses a downlink shared channel power control method for a wide band code division multiple access mobile communication system (Kim, Abstract), such that a power level of the DCH (dedicated channel) transmitted from the base station is measured, and a transmit power control (TPC) command based on the measured power level is transmitted to the base station (Kim, page 2, paragraph 26). Kim discloses that the base station adjusts the power level of the DCH according to the TPC command received. Further, Kim discloses a downlink physical channel (DPCH) used to carry control commands for the associated uplink DPCH (the link from the mobile station to the base station) and, if needed, to provide other services, such as circuit-switched voice service (Kim, page 3, paragraph 28).

The Examiner acknowledges that Kim does not disclose power correcting with a dedicated physical data channel (Office Action, page 3). However, the Examiner cites Dahlman, paragraph 8, and alleges that Dahlman discloses a power correcting unit that corrects transmission power with the encoding gain of dedicated physical data channel being taken into consideration. The Examiner alleges further that the dedicated physical channel (DPCH) disclosed by Dahlman inherently includes the dedicated physical data channel (DPDCH).

Dahlman discloses power control for the downlink dedicated physical channel (DPCH) accomplished as follows: the mobile station measures the received signal-to-interference ratio of the DPCH, compares it with a threshold and transmits an up or down command back to the base station to adjust the transmit power of the DPCH to keep the received signal-to-interference ratio of the DPCH at a constant level (Dahlman, page 1, paragraph 8).

Dahlman does not disclose or suggest correcting transmission power based on the encoding gain of the dedicated physical data channel, and transmitting said dedicated physical control channel with the corrected transmission power. First, Dahlman does not disclose or suggest controlling transmission power of any dedicated physical channel based on an encoding gain. That is, Dahlman does not disclose or suggest adjusting or correcting the transmission power of the dedicated physical control channel based on the encoding gain. As will be recognized, an encoding gain typically comes about as a result of the lowering or adjustment of

the transmission power level made possible by the lower error rate brought about by the encoding of the data on the data channel. Such an encoding gain-based power level adjustment is not disclosed or suggested by Dahlman.

Further, since Dahlman does not disclose or suggest such features, Dahlman is incapable of disclosing or suggesting correcting transmission power for the dedicated physical control channel based on an encoding gain of the dedicated physical data channel, as further required by claims 1, 13 and 25. Accordingly, Kim and Dahlman, even taken together in combination, do not disclose or suggest the recitations of claims 1, 13 and 25.

Moreover, it is respectfully submitted that there would have been no suggestion or motivation for a person of ordinary skill in the art to arrive at the proposed combination based on the cited references. The Examiner alleges that the motivation would have been “to improve efficiency” (Office Action, page 3). It is respectfully submitted that a general motivation, such as improving efficiency, would have been insufficient for motivating a person of ordinary skill to arrive at the recitations of claims 1, 13 and 25. Thus, it would be impermissible hindsight reconstruction based on applicant’s own disclosure to seize on Dahlman’s disclosure of DPCH power control and combine it with Kim’s system as proposed by the Examiner. Therefore, it is respectfully submitted that the recitations of claims 1, 13 and 25 would not have been obvious to a person of ordinary skill in the art based on Kim and Dahlman, even taken together in combination.

Claims 2, 7 and 8 depend from claim 1; claims 14, 19 and 20 depend from claim 13; and claims 26, 31 and 32 depend from claim 25. Accordingly, claims 2, 7 and 8, claims 14, 19 and 20, and claims 26, 31 and 32 are patentably distinguishable over the cited art for at least the same reasons as their respective base claims.

Rejection of Claims 3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33 and 34 under 35 U.S.C. §103

Claims 3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33 and 34 are rejected under 35 U.S.C. §103 as being obvious based on Kim and Dahlman, in view of Lee (2002/0082020). Reconsideration of this rejection is respectfully requested.

Lee does not cure the above-cited deficiencies of Kim and Dahlman as they relate to the above-identified features of claims 1, 13 and 25. Further, the Examiner does not allege that Lee

discloses or suggests such features. Therefore, since claims 3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33 and 34 depend from claims 1, 13 and 25, they are patentably distinguishable over the cited art for at least the same reasons.

Rejection of Claims 5, 6, 11, 12, 17, 18, 23, 24, 29, 30, 35 and 36 under 35 U.S.C. §103

Claims 5, 6, 11, 12, 17, 18, 23, 24, 29, 30, 35 and 36 are rejected under 35 U.S.C. §103 as being obvious based on Kim, Dahlman and Lee, in view of Kroner (6,928,268).

Reconsideration of this rejection is respectfully requested.

Kroner does not cure the above-cited deficiencies of Kim, Dahlman and Lee as they relate to the above-identified features of claims 1, 13 and 25. Further, the Examiner does not allege that Kroner discloses or suggests such features. Therefore, since claims 5, 6, 11, 12, 17, 18, 23, 24, 29, 30, 35 and 36 depend from claims 1, 13 and 25, they are patentably distinguishable over the cited art for at least the same reasons.

Conclusion

In view of the foregoing discussion, withdrawal of the rejections and allowance of the application is respectfully requested.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

Should the Examiner have any questions regarding the present Amendment or regarding the application generally, the Examiner is invited to telephone the undersigned attorney at the below-provided telephone number.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE UNITED STATES
PATENT AND TRADEMARK OFFICE
EFS FILING SYSTEM
ON JANUARY 30, 2007

Respectfully submitted,



MAX MOSKOWITZ
Registration No.: 30,576
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700